**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**FIRST APPEAL No. 3014 of 2006**
with
CIVIL APPLICATION NO. 9774 OF 2006

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE M.S.SHAH**
**HONOURABLE MR.JUSTICE K.M.MEHTA**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?No

2 To be referred to the Reporter or not ?No

3 Whether their Lordships wish to see the fair copy of the judgment ?No

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?No

5 Whether it is to be circulated to the civil judge ?No

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**GUJARAT STATE ROAD TRANSPORT CORPORATION - Appellant(s)**
**Versus**
**PRASANT LAXMINANDAN SHAH & 1 - Defendant(s)**

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**Appearance :**
MS AVANI S MEHTA for Appellant(s) : 1,
None for Defendant(s) : 1 - 2.

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**CORAM : HONOURABLE MR.JUSTICE M.S.SHAH**

**and**

**HONOURABLE MR.JUSTICE K.M.MEHTA**

**Date : 22/08/2006**

**ORAL JUDGMENT**

**(Per : HONOURABLE MR.JUSTICE K.M.MEHTA)**

Gujarat State Road Transport Corporation (hereinafter referred to as “the Corporation”) has filed this appeal against the judgement and award dated 26.7.2005 passed by the Motor Accident Claims Tribunal, Fast Track Court No. 6, Kheda District at Nadiad in Motor Accident Claims Petition No. 332 of 1991. By the impugned judgement/award the Tribunal has awarded Rs. 2,31,480/- with interest at the rate of 7.5% to the applicant from the date of the application till realisation. The Tribunal has passed order for disbursement and investment.

2. We have heard Ms. Avani S. Mehta, learned advocate for the appellant. In this case the Tribunal has held that the S.T. Bus was driven rashly and negligently by the driver of the bus and the claimant had suffered serious injuries particularly he had fracture on the left leg and other injuries and therefore the Corporation is liable to pay Rs. 2,31,480/-.

3. As regards negligence, it is the case of the claimant that the claimant was running Kinetic Honda and the S.T. Bus has overtaken the motorcycle and at that time the bus had dashed the motorcycle and therefore first the motorcyclist fell down and one leg of the claimant got entangled in the wheel and therefore he fell down and the wheel of the S.T. Bus

rolled over the claimant and that is how he has sustained fracture on his left leg and several injuries on his body. The claimant was examined at Exh. 48. The S.T. Driver was also examined. However, the learned Judge after taking into consideration the panchnama and other evidence, held that the S.T. Bus driver was negligent to the extent of 90% and the motor cyclist was negligent to th extent of 10%. We are, therefore, of the view that the learned Judge has correctly arrived at the conclusion on the question of negligence.

4. As regards compensation, the claimant examined Dr. Dhrupal Harendrasinh Sisodia at Exh. 59. The learned Judge has taken income of Rs. 2500/- per month and assessed 22% permanent disability and so he determined future economic loss at Rs. 1,12,200/- (Rs. 550/- x 12 x 17). The claimant remained out of job for 181 days. The claimant has produced documentary evidence at Exhs. 29 to 34 and medical bills from Exhs.36 to 39. Nine operations were performed on him and certificate of permanent disability was issued by Dr. Sisodia. The claimant has also taken treatment in USA. The learned Judge has thus awarded Rs. 40,000/- on pain, shock and suffering. The learned Judge has further awarded Rs. 70,000/- for medical treatment including treatment which the applicant has taken in USA. The learned Judge has also awarded special diet expenses.

5. We have gone through the judgement and award

of the tribunal. After going through the same, we are of the view that the award of the tribunal is just and proper and we do not see any reason to interfere with the same. Hence the appeal is dismissed.

6. The amount deposited before this Court at the time of filing the appeal shall be transmitted to the Tribunal within two weeks from to-day.

7. In view of the dismissal of the main appeal, no orders are passed on the Civil Application.

(M.S. SHAH, J)

(K.M. MEHTA, J)

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